

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN THE MATTER OF:	)	Docket No. V-W- '89 -C- 014
	)	
	)	ADMINISTRATIVE ORDER
	)	PURSUANT TO SECTION 106
	)	OF THE COMPREHENSIVE
	)	ENVIRONMENTAL RESPONSE,
Respondent:	)	COMPENSATION, AND
	)	LIABILITY ACT OF 1980
CHICAGO INDUSTRIAL WASTE	)	as amended, 42 U.S.C.
HAULERS	)	Section 9606(a)
	)	
	)	

## PREAMBLE

This Administrative Order (Order) is issued on this date to Respondent, Chicago Industrial Waste Haulers, who are located at 4206 West Shirley Lane.

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the United States Environmental Protection Agency (U.S. EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14 and 14-14-A, and to the Director, Waste Management Division, Region V, by Regional Delegation 14-14B.

By copy of this Order the State of Illinois has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

This Order requires the Respondent to undertake and complete emergency removal activities at the facility to abate a possible imminent and substantial endangerment to the public health and welfare or the environment arising from the actual or threatened release of hazardous substances at the facility.

FINDINGS

1. Chicago Industrial Waste Haulers (CIWH), incorporated is a Illinois corporation, engaged in the business of cleaning tanks and hauling waste oil. It is located in the township of Alsip, Cook County, Illinois. Its president is Kevin Prunsky.
2. CIWH, Inc. previously operated as Chicago Tank Cleaners.

3. CIWH has Interim Status as a hazardous waste storage facility from U.S. EPA
4. On September 30, 1984, two children were injured when they entered the CIWH facility and ignited vapors from one of the storage tanks while playing with matches.
5. On October 3, 1984, a sample of the contents from one of the storage tanks showed these contents to be hazardous by the characteristic of ignitability.
6. On October 3, 1984, Illinois Environmental Protection Agency (IEPA) preformed a site inspection at CIWH. More than 15 violations of the Illinois Environmental Protection Act and/or violations of the Rules and Regulations of the Illinois Pollution Control Board were noted.
7. On May 18, 1987, IEPA preformed a second site inspection at CIWH. Besides the original 15 violations, 19 additional violations were noted.
8. On March 10, 1989, U.S. EPA's Technical Assistance Team (TAT) conducted a Spill Prevention, Control and Countermeasure inspection at the facility. During this inspection, TAT recorded a reading of 65 units on a Organic Vapor Analyzer, near a blue horizontal tank. Normal background is less than 5 units, general U.S. EPA guidelines require supplied breathing air apparatus at levels 5 units or above.
9. On March 17, 1989, U.S. EPA On-Scene Coordinator Richard Rupert, accompanied by TAT, performed a site investigation of the CIWH facility. Workers on-site were shoveling material out of the horizontal blue tank, which now was cut open. These workers wore no respiratory protection, or protective clothing of any kind. Samples of this material showed that polychlorinated biphenyls (PCB) of 20 parts per million (ppm) and total volatile organic compounds (VOC's) of 43,330 ppm. One of these VOCs was benzene at 10 ppm. Benzene is a suspected human carcinogen.
10. Sample of substances contained in six (6) tanks at CIWH contained high levels of PCB's. There is currently stored greater than 50,000 gallons of PCB's contaminated oil at CIWH. PCB levels are as high as 40,000 ppm.

#### DETERMINATIONS

1. The property listed under Property Identification Numbers (PIN) 24-27-206-034 and 24-27-206-031 is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).
2. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).



3. Respondent CIWH is the present "owner" and "operator" of a portion of the Facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20). Respondent is either a past owner or operator of the entire Facility, or arranged for disposal or transport for disposal of hazardous substances at the Facility. Respondent is therefore a liable persons under Section 107(a) of CERCLA, 42 U.S.C. Section 9607. The substances detected are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).
4. Conditions at the Facility constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).
5. The actual or threatened release of hazardous substances from the Facility may present an imminent and substantial endangerment to the public health, welfare, or the environment.
6. The actions required by this Order, if properly performed, are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and CERCLA; and are reasonable and necessary to protect the public health, welfare and the environment.
7. The conditions present at the Facility constitute a threat to public health or welfare or the environment based upon consideration of the factors set forth in the NCP, Section 300.65(b)(2). These factors include, but are not limited to, the following:
  - a. "actual or potential exposure to hazardous substances or pollutants or contaminants by nearby populations, animals, or food chain";

This factor is present at the Facility due to the existence of large volumes of PCB-contaminated and ignitable oil and solvents stored improperly, with no regard for any existing safety standard.

- b. "actual or potential contamination of drinking water supplies or sensitive ecosystems;"

This factor is present at the Facility due to the proximity of Stony Creek, which is a tributary of Lake Michigan. A substance which appear to be an oil, now leaches from the south shore of Stony Creek.

- c. "hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;"

This factor is present at the Facility due to the existence of large volumes of PCB-contaminated and ignitable oils and solvents stored improperly, with no regard for any existing safety standards.

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## d. "threat of fire or explosion;"

This factor is present at the Facility due to the existence of improperly stored, very low flash point hazardous substances (70 degrees F).

ORDER

Based upon the foregoing Findings and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby Ordered that Respondent undertake the following actions at the Facility:

1. Within five (5) calendar days after the effective date of this Order, the Respondent shall submit to U.S. EPA for approval, a Work Plan for the removal activities ordered as set forth in Paragraph 4 below. The Work Plan shall provide a concise description of the activities to be conducted to comply with the requirements of this Order. The Work Plan shall be reviewed and approved by U.S. EPA and may be modified in part or whole by the U.S. EPA. Respondent shall implement the Work Plan as modified and approved by U.S. EPA.
2. The Work Plan shall contain a site safety and health plan, a sampling and analysis plan, and a schedule of the work to be performed. The site safety and health plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to Hazardous Waste Operations and Emergency Response, 29 CFR Part 1910. The Work Plan and other submitted documents shall demonstrate that the Respondent can properly conduct the actions required by this Order.
3. Respondent shall retain a contractor qualified to undertake and complete the requirements of this Order, and shall notify U.S. EPA of the name of such contractor within three (3) days of the effective date of this Order. U.S. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondent. In the event U.S. EPA disapproves of a selected contractor, Respondent shall retain a different contractor to perform the work, and such selection shall be made within two (2) business days following U.S. EPA's disapproval.
4. Within two (2) calendar days after U.S. EPA approval of the Work Plan, Respondent shall implement the Work Plan as approved or modified by U.S. EPA. Failure of the Respondent to properly implement all aspects of the Work Plan shall be deemed to be a violation of the terms of this Order. The Work Plan shall require the Respondent to perform, and complete within 21 calendar days after approval, at a minimum, the following removal activities:

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- a. Restrict access to potentially contaminated areas of the facility and areas outside the facility's fence line as deemed appropriate by the U.S. EPA. Access should be restricted by erecting a 6-foot chain-link and barbed-wire fence with locking access points, and 24 hour security guard. Warning signs shall be posted on a 50 foot center.
  - b. A radiological survey of the entire facility and areas outside the facility fence line extending north to Stony Creek as deemed appropriate by the U.S. EPA.
  - c. Sampling of all tanks and containers at the facility for disposal parameters.
  - d. Dispose of all hazardous substances and decontaminate all tanks.
  - e. Render all tank unable to contain liquids.
  - f. A geophysical and soil gas survey throughout the site and areas deemed appropriate by the On-Scene Coordinator, in order to locate all buried drums and tanks.
  - g. All buried drums and tanks shall be excavated and the contents analyzed to determine the presence of hazardous substances.
  - h. A extent of soil contamination study, to include the facility and area north to and including Stony Creek, and a soil removal plan if contamination is discovered.
  - i. A study to determine if groundwater has been contaminated.
5. All materials removed from the Facility shall be disposed of or treated at a facility approved by the On-Scene Coordinator and in accordance with the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section 9601, et seq., as amended, the U.S. EPA Revised Off-Site Policy, and all other applicable Federal, State, and local requirements.
  6. On or before the effective date of this Order, the Respondent shall designate a Project Coordinator. The U.S. EPA has designated Richard Rupert of the Emergency and Enforcement Response Branch, Response Section II, as its On-Scene Coordinator. The On-Scene Coordinator and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondent and the U.S. EPA, and all documents, reports and approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the On-Scene Coordinator and the Project Coordinator.

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7. The U.S. EPA and the Respondent shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. U.S. EPA shall notify the Respondent, and Respondent shall notify U.S. EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be verbal, but shall promptly be reduced to writing.
8. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondent(s) at the facility.
9. No extensions to the above time frames shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.
10. All instructions by the U.S. EPA On-Scene Coordinator or his designated alternate, consistent with the terms of this Order and with the NCP, 40 CFR Part 300, shall be binding upon the Respondent.
11. To the extent that the Facility or other areas where work under this Order is to be performed is under ownership or possession by someone other than the Respondent, Respondent shall obtain all necessary access agreements. In the event that after using its best efforts Respondent is unable to obtain such agreements, Respondent shall immediately notify U.S. EPA and U.S. EPA shall then assist Respondent in gaining access, to the extent of their authority.
12. Respondent shall provide access to the Facility to U.S. EPA employees, contractors, agents, and consultants at reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Facility, to do cleanup/stabilization work, to take samples to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary.
13. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order, or from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondent in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law.
14. The provisions of this Order and the directions of the On-Scene Coordinator shall be binding on the employees, agents, successors, and assigns of the Respondent.

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15. This Order shall be effective seven (7) calendar days following issuance by the U.S. EPA Region V, Waste Management Division Director unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective on the first calendar day following the day of the conference unless modified by the Waste Management Division Director.
16. Within one (1) calendar days of the effective date of this Order, Respondent shall provide notice, verbally or in writing, to U.S. EPA stating its intention to comply with the terms of this Order. Verbal notification must be followed in writing within two (2) calendar days. In the event Respondent fails to provide such notice, that Respondent shall be deemed not to have complied with the terms of this Order.
17. Copies of all records and files relating to hazardous substances found on the site shall be made available to the U.S. EPA On-Scene Coordinator prior to the termination of the cleanup of the site.
18. All notices, reports and requests for extensions submitted under terms of this Order shall be sent by certified mail, return receipt requested, and addressed to the following:

one copy      Mr. Richard Rupert  
On-Scene Coordinator  
U.S. EPA 5HS-11  
230 South Dearborn Street  
Chicago, Illinois 60604

one copy      Leonardo D. Robinson  
U.S. EPA 5CS-TUB-3  
230 South Dearborn Street  
Chicago, Illinois 60604

#### ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting the above Determinations and Findings is available for review on normal business days between the hours of 9:00 a.m. and 5:00 p.m. in the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 W. Jackson Blvd., Third Floor, Chicago, Illinois. Please contact Leonardo D. Robinson, Assistant Regional Counsel, at (312) 886-6830 to review the Administrative Record. An index of the Administrative Record is attached hereto.

#### OPPORTUNITY TO CONFER

With respect to the actions required above, Respondent may within seven (7) calendar days after issuance of this Order, request a conference with the U.S. EPA to discuss this Order and its applicability to them. Any such

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conference shall be held within three (3) calendar days from the date of request. At any conference held pursuant to the request, Respondent may appear in person, or by an attorney or other representative. If any Respondent desires such a conference, the Respondent shall contact Leonardo D. Robinson, Assistant Regional Counsel, at (312) 886-6830.

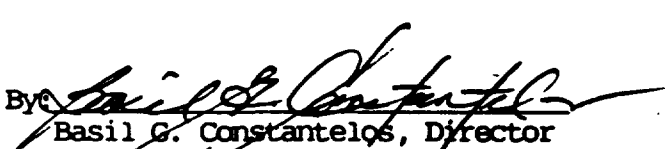
Any comments regarding this Order, its applicability, or any factual determinations upon which the Order is based, the appropriateness of any action which Respondent are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA within three (3) calendar days following the conference, or if no conference is requested, within seven (7) calendar days following the issuance of this Order. Any such writing should be directed to Leonardo D. Robinson, Assistant Regional Counsel, at the address cited above.

Respondent is hereby placed on notice that U.S. EPA will take any action which may be necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondent may be liable under Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of those government actions.

#### PENALTIES FOR NONCOMPLIANCE

Respondent is advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondent to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Order, or any portion thereof, without sufficient cause may also subject the Respondent to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of the Respondent's failure to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

By:

  
Basil G. Constantelos, Director  
Waste Management Division  
United States Environmental  
Protection Agency  
Region V

April 19, 1988

RRupert/jxm/4-11-89/Disk: Rupert.



Index to Administrative Record

Spill Prevention, Control and Countermeasure Inspection Field Sheet,  
March 10, 1989. Paul Szewczykowski, Technical Assistance Team,  
R.F. Weston.

Site Inspection Report, March 17, 1989, Paul Szewczykowski, Technical  
Assistance Team, R.F. Weston.

Referral Package from Illinois Environmental Protection Agency to United  
States Environmental Protection Agency July 1987.



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

APR 19 1989

APRIL 19, 1989

REPLY TO THE ATTENTION OF

CERTIFIED MAILRETURN RECEIPT REQUESTED

Chicago Industrial Waste Haulers  
4206 West Shirley Lane  
Alsip, Illinois 60658

Re: Chicago Industrial Waste Haulers

Dear Sir:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency (EPA) under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. Section 9601, et seq.

Please note that it allows an opportunity for a conference if requested within seven (7) calendar days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within calendar days of seven (7) of the Order.

If you have any questions regarding the Order, feel free to contact Leonardo D. Robinson, Assistant Regional Counsel, at (312) 886-6830 or Richard Rupert, On-Scene Coordinator, at (312) 886-1960.

Sincerely yours,

*Man a. Gse*

Basil G. Constantelos  
Director, Waste Management Division

Enclosure

cc w/encl:  
State of

bcc w/encl:



000118

cc: IEPA

bcc: Tom Pernell, ORC (5CS-TUB3)  
Ivery Jacobs, EPA HQ  
Len Robinson, ORC (5CS-TUB3)  
R. Rupert, (5HS-11)  
File copy  
Ruth Mancos, ESS (5HS-11)  
Ray Urchel, ESS (5HS-11)  
Bruce Pumphrey, (5HS-120)  
Oliver Warnsley, RP-CRU (5HS-12)  
ADD/OSF Read  
EERB Read  
WMD Division Director Read  
Dan O'Riordan, Public Affairs (5PA-14)  
w/out attachments  
Sheila Huff, Department of Interior